IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9417 of 2002
with
SPEICAL CIVIL APPLICATION No 9418 of 2002
with
SPEICAL CIVIL APPLICATION No 9972 of 2004.

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SALIM SALEJI SEEDAT

Versus

GAS AUTHORITY OF INDIA LIMITED

Appearance:

1. Special Civil Application No. 9417 of 2002

MR BS PATEL for Petitioner No. 1-12

MRS RANJAN B PATEL for Petitioner No. 1-12

MR KUNAL NAIK for M/S TRIVEDI & GUPTA for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 24/12/2004

ORAL COMMON JUDGEMENT

1. In these petitions under Article 226 of the Constitution of India, the respective petitioners have challenged the legality and validity of the notices dated 6th December, 2001 issued by the respondent no. 1 - GAIL under Section 8 of the Petroleum & Mineral Pipeline Act, 1962 ["the Act" for short] to take over the possession of the land in question for the purpose of laying down the pipe for the purpose of supply of gas. The petitioners have also challenged the award declared by respondent no. 2 dated 27th March, 2002 with regard to aforesaid land in question.

2. As the pipelines were required to be laid down from the land in question of the petitioners, it is the case of the petitioners that they came to be served with notice under Section 8 of the Act on 6th December, 2001. It is the case of the petitioners that before taking over the possession of the land in question and before actually laying down the pipe, procedure as required under Section 3 of the Act as well as Notification under Section 6 is not issued and, therefore, the action of the respondents is contrary to the provisions of the aforesaid Act. Therefore, appropriate order is required to be passed to restore the petitioners land as it was prior to the issuance of the notice dated 6th December, 2001. Shri Patel learned advocate for the petitioners further submitted that consequently, the award which is passed by respondent no. 2 with regard to the said land in question is also required to be quashed and set aside.

2.1. Shri Kunal Naik learned advocate appears on behalf of respondent no. 1. He submitted that as such, necessary procedure was followed as required under Section 3 of the Act i.e. with regard to the land in question and Notification under Section 6 of the Act was issued in the year 1992 with regard to right of the user. He has further submitted that in fact the right of user is with regard to the land and not with regard to pipeline. It is also pointed out that apart from that pursuant to the notice dated 6th December, 2001, the possession was already taken over and the pipeline is already laid down. Even otherwise, the petitioners have also accepted the amount of compensation which is awarded vide award dated 27th March, 2002 and, therefore, it is now not open for the petitioners to challenge the same.

3. Heard the learned advocates of the respective parties. Without going into larger question and merits of the case, and in view of the fact that pursuant to the

notice dated 6th December, 2002, the possession of the land in question is already taken over by respondent no. 1 for the purpose of laying down the pipelines and the pipelines for supply of gas has already been laid down and further in view of the fact that subsequently the award under Section 10 the Act came to be published and the petitioners were awarded compensation which they have already accepted without protest, it is not open for the petitioners now to challenge the action of the respondents.

4. Under the circumstances, all the petitions are dismissed accordingly. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[M.R. SHAH, J.]

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